

**131.610 Directory of certified tobacco product manufacturers and brand families -- Requirements for inclusion -- Removal -- Notice.**

- (1) The Attorney General shall develop and make available to the department for public inspection, to include publishing on the department's Web site, a listing of all tobacco product manufacturers that have provided current and accurate certifications pursuant to KRS 131.608 and all brand families that are listed in the certifications. The listing shall be referred to as the "directory" and completed no later than July 1 of each certification year.
- (2) The department shall not include or retain in the directory the name or brand families of any nonparticipating manufacturer that has failed to provide the required certification or whose certification the Attorney General determines is not in compliance with KRS 131.608, unless the Attorney General has determined that such violation has been satisfactorily cured.
- (3) Neither a tobacco product manufacturer nor a brand family shall be included or retained in the directory if the Attorney General determines, in the case of a nonparticipating manufacturer, that:
  - (a) Any escrow payment required pursuant to KRS 131.602 for any period for any brand family, whether or not listed by the nonparticipating manufacturer, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the Attorney General; or
  - (b) Any outstanding final judgment, including interest thereon, for a violation of KRS 131.602 has not been fully satisfied for the brand family or the manufacturer.
- (4) Upon receipt of information from the Attorney General, the department shall update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand family to keep the directory in conformity with the requirements of this section and KRS 131.608 and 131.620.
- (5)
  - (a) The department shall transmit, by electronic mail or other practicable means, notice to each stamping agent and distributor of any addition to or removal from the directory of any tobacco product manufacturer or brand family.
  - (b) Within seven (7) days of receiving a removal notice from the department, each stamping agent or distributor shall forward:
    1. A copy of the removal notice to each of the stamping agent's or distributor's retail customers; and
    2. To the department, a list of the retailer customers to whom the removal notices were sent.
  - (c)
    1. The retailer shall have sixty (60) days from the effective date of the removal notice to sell the affected cigarettes before the cigarettes are deemed contraband and become subject to seizure and destruction under KRS 131.622.
    2. On and after the sixty-first day from the effective date of the removal notice, the retailer shall not sell any cigarettes of a tobacco product manufacturer or brand family that has been removed from the directory.

- (6) Every stamping agent and distributor shall provide and update as necessary an electronic mail address to the department for the purpose of receiving any notifications that may be required by this section and KRS 131.608, 131.616, 131.620, and 131.624.
- (7) Notwithstanding the provisions of subsections (2) and (3) of this section, in the case of any nonparticipating manufacturer who has established a qualified escrow account pursuant to KRS 131.602 that has been approved by the Attorney General, the Attorney General may not remove the manufacturer or its brand families from the directory unless the manufacturer has been given at least thirty (30) days' notice of the intended action. For the purposes of this section, notice shall be deemed sufficient if it is sent either electronically to an electronic-mail address or by first class to a postal mailing address provided by the manufacturer in its most recent certification filed pursuant to KRS 131.608. The notified nonparticipating manufacturer shall have thirty (30) days from receipt of the notice to comply. At the time that the Attorney General sends notice of his or her intent to remove the manufacturer from the directory, the Attorney General shall post the notice in the directory.
- (8) Beginning on the day after the Attorney General posts a notice in the directory of the Attorney General's intent to remove the nonparticipating manufacturer from the directory as provided in subsection (7) of this section, a stamping agent or distributor shall not purchase cigarettes from the nonparticipating manufacturer unless and until the Attorney General determines that the nonparticipating manufacturer is in compliance with KRS 131.608 and posts the notification of compliance in the directory.

**Effective:** July 1, 2009

**History:** Amended 2009 Ky. Acts ch. 84, sec. 2, effective July 1, 2009. -- Amended 2005 Ky. Acts ch. 85, sec. 157, effective June 20, 2005. -- Created 2003 Ky. Acts ch. 194, sec. 4, effective April 6, 2003.